96, 105, 30 S. E. 492, that a subscription to stock is "not only an undertaking to the company, but with all other subscribers. It is of the essence of the contract between the shareholders that they shall all contribute ratably to the payment of the company's debts and liabilities." See 12 Va.-W. Va. Enc.-Dig. 812.

Point 10 of the syllabus is a further circumscription of the effect of § 1103a of the Code, 1904, along the line of Reed *v.* Gold, 102 Va. 37, 45 S. E. 868. See 12 Va.-W. Va. Enc.-Dig. 817, where the construction of this statute by that and other cases is treated. Reed *v.* Gold, preserves unimpaired the jurisdiction of equity to wind up insolvent corporations and to make assessments on unpaid stock subscriptions, the enforcement being left to the law courts, and this case reaffirms that and sets additional bounds to the operation of the statute.

CITY OF NORFOLK *v.* BOARD OF TRADE & BUSINESS MEN'S ASS'N. SAME *v.* VIRGINIA CLUB.

March 11, 1909.

[63 S. E. 987.]

1. Constitutional Law (§ 26*)—Legislative Power—Constitutional Limitations.—The power of the Legislature to enact laws is unrestrained, except by the Constitution.

[Ed. Note.—For other cases, see Constitutional Law, Cent. Dig. § 30; Dec. Dig. § 26.* See, also, 3 Va.-W. Va. Enc. Dig. 161, et seq.]

2. Statutes (§ 79*)—Special Laws.—Acts 1904, p. 214, c. 116, providing that any corporation chartered as a social club, and paying to the state the tax imposed, may distribute intoxicating liquors to its members without obtaining any license or paying any other tax, etc., is a general law, and is not in conflict with Const. 1902, § 64 (Code 1904, p. ccxxiv), forbidding special laws granting to any private corporation any special privilege.

[Ed. Note.—For other cases, see Statutes, Cent. Dig. § 84; Dec. Dig. § 79.* See, also, 3 Va.-W. Va. Enc. Dig. 535; 12 Id. 749.]

3. Intoxicating Liquors (§ 45*)—Licenses—Statutes.—Acts 1904, p. 214, c. 116, providing that any corporation chartered as a social club, and paying to the state the tax imposed, may distribute intoxicating liquors to its members without obtaining any license or paying any other tax, either state, municipal, or county, for the privilege, etc., adopted subsequent to Code 1904, § 1042, conferring on cities and towns authority to impose a license tax, etc., operates as a limitation on such authority, and is but an amendment of the section.

[Ed. Note.—For other cases, see Intoxicating Liquors, Dec. Dig. § 45.* See, also, 12 Va.-W. Va. Enc. Dig. 778.]

4. Intoxicating Liquors (§ 15*)—Regulation—Statutes—Validity.—Acts 1904, p. 214, c. 116, providing that any corporation chartered

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*For other cases, see same topic and section NUMBER in Dec. and Am. Digs. 1907 to date, and Reporter Indexes.

as a social club, and paying to the state the tax imposed, may distribute intoxicating liquors to its members without obtaining any license or paying any other tax, either state, municipal, or county, for the privilege, etc., is within the police power, though it abridges the police power conferred on cities by Code 1904, § 1042, authorizing cities and towns to impose a license tax, etc.

[Ed. Note.—For other cases, see Intoxicating Liquors, Dec. Dig. § 15.* See, also, 1 Va.-W. Va. Enc. Dig. 844; 8 Id. 8; 9 Id. 310; 10 Id. 227.]

Error to Circuit Court of Norfolk City.

The Board of Trade & Business Men's Association and the Virginia Club were prosecuted by the City of Norfolk for failing to pay a liquor license tax. There was a judgment of the circuit court in favor of defendants in each case, and the city in each case brings error. Affirmed.

James F. Duncan, for plaintiff in error.

Thos. H. Wilcox and *Williams & Tunstall,* for defendants in error.

CARDWELL, J. The writ of error awarded in each of these cases presents the same question. The cases were submitted together for decision, and will be disposed of in this opinion.

Upon the agreed statement of facts filed in the record defendants in error are each bona fide social clubs, by virtue of the laws of Virginia, chartered and organized prior to April 16, 1903. Each of them paid to the treasurer of the city of Norfolk in due time $350 claimed against them, respectively, as all that was due for license taxes under the laws of Virginia for the year 1905. The city of Norfolk, by its ordinance, undertook to impose on behalf of the city an additional license tax of $500, and, defendants in error having failed to pay same, they were each adjudged by the police justice of the city to pay a fine of $20 and costs, whereupon an appeal was taken to the circuit court of the city of Norfolk, and upon the hearing, that court "being of the opinion that the act approved March 12, 1904 (Acts 1904, p. 214, c. 116) is an exercise of the police power of the commonwealth, regulating social clubs and fixing conditions upon which they exist in this state, and restrains the city of Norfolk from imposing additional conditions," rendered its decision accordingly. In other words, the circuit court denied the right of the city to impose further taxes or license charges against defendant in error other than the sum of $350 imposed by the state of Virginia, reversed the judgment of the police justice, and dismissed each of these prosecutions.

The act of March 12, 1904, *supra,* so far as pertinent to these cases, is as follows: "Any corporation chartered and organized as a social club and paying the tax above described (the tax of

$350 in favor of the state) shall be entitled to distribute and dispense wines, ardent spirits, malt liquors or any mixture thereof, alcoholic bitters or bitters containing alcohol, or fruit preserved in ardent spirits, or malt liquors only, as the case may be, to and among its members without obtaining any license or paying and other further tax, either state, municipal, or county, for the said privilege, than is above described; provided that such corporation is organized and conducted as a bona fide social club." And by a preceding section of the statute the exemption of all social clubs from being required to obtain any license or pay any other further tax, either state, municipal, or county, for the privilege of being a social club, is restricted to bona fide social clubs chartered and organized prior to April 16, 1903.

By the agreed statement of facts, it further appears that all of the conditions are met entitling defendants in error to the exemption from further taxation by the state for the year 1905 and from municipal tax for the privileges conferred by the statute. Therefore the sole question for our determination is the power of the Legislature to pass the act in question. We are not required to determine whether or not there was a valid reason for the Legislature to pass the act, but solely whether it had the power.

The power of the Legislature to enact laws upon any and all subjects is unrestrained, unless prohibited by the Constitution. Conk *v.* Skeen, Judge, 63 S. E. 11.

There is nothing in the Constitution in express terms prohibiting the passage of the Act of March 12, 1904, *supra,* as section 64 of the Constitution of 1902 (Code 1904, p. ccxxiv) —forbidding the Legislature to pass special laws in certain cases, among others, "Grant to any private corporation, association or individual any special or exclusive right, privilege or immunity"—has no application here; the statute being a general law.

Nor is there any merit in the contention of plaintiff in error, the city of Norfolk, that section 1042 of the Code of 1904 should override the act now under consideration, because it is in general consonance with section 64 of the Constitution. The act under consideration, passed at a subsequent date to that of section 1042 of the Code conferring upon cities and towns authority to impose a license tax in addition to such tax as is imposed by the state in certain cases, being constitutional and valid, necessarily operates as a limitation upon the authority of the cities and towns of the commonwealth, conferred by section 1042, to impose in addition to the state tax on any license a tax for the benefit of the city or town. The subsequent statute is but an amendment to the former, both being general laws, constitutional, and valid.

There is no abridgement of the exercise of the police powers of the state by the statute of March 12, 1904, under consideration. On the contrary, the act is in the exercise of the state's police powers; and, even if it does "cripple and abridge the police power of plaintiff in error," it is none the less within the power of the Legislature to enact it, as the Legislature has the power to say what the city shall tax and what it shall not tax, notwithstanding section 1042 of the Code of 1904, *supra*.

The statute under consideration, though incidentally referred to in Phœbus *v.* Manhattan Club, 105 Va. 144, 52 S. E. 839, was not involved so as to require an adjudication as to its validity or effect, and therefore the decision in that case has no bearing here.

We are of opinion that the judgment of the circuit court in these cases is without error, and should therefore be affirmed.

Affirmed.

Note.

The point decided in syllabus 2 accords with the general principle that a statute is a general one, and not special, when it relates to all members of a class, then existing or coming within its qualifications at any future time, however limited in number they may be, if all such within the jurisdiction of the law-making power are included, and provided the classification is a reasonable one. See Groves *v.* County Court, 42 W. Va. 587, 26 S. E. 460. See, also, 12 Va.-W. Va. Enc. Dig. 749. A somewhat similar case is found in Streeter *v.* People, 69 Ill. 595, where it was held that the Illinois Liquor Law of Jan. 13, 1872, being a general law operating equally upon all classes of persons within the state, even if at its passage there was no law under which a person not residing in any incorporated town or city, could obtain a license, was not, by that fact, rendered void, as being in violation of the constitutional provision against the passage of local or special laws granting to any individual or corporation any special or exclusive privileges, etc.

For other cases of amendment of statutes by implication, see 12 Va.-W. Va. Enc. Dig. 778; and on the subject of the dependency of municipal corporations, for then police powers, upon the will of the legislature, and, as a corollary therefrom, the right of the legislature to limit and abridge same by either express resumption of such delegated powers or implied abridgement thereof by further legislation inconsistent with the continuance of such powers in the municipality in their full original extent, see 10 Va.-W. Va. Enc. Dig. 174, et seq. See, also, 23 Cyc. 75, where it is said, citing numerous cases, that the fact that a delegation to municipalities of authority to regulate and prohibit the sale of liquor was made by the permission of a state constitutional provision, does not deprive the legislature of power to recall the authority And see Plattesville *v.* McKernan, 54 Wis. 487, 11 N. W. 798, where it is said that the general law of the state on the subject of licensing the sale of intoxicating liquors, and making their unlicensed sale punishable as a misdemeanor, operated to repeal the provisions of their existing municipal charters on that subject, excepting in the three particulars expressly excepted by the statute.